IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION No. 6677 of 2001

Between:

Smt.Chanda Ankamma W/o.Chinna Penchalaiah
R/o Nedumusali Village, Indukurpet Mandal,
Nellore District. .... PETITIONER

AND

1 The Commissioner, Endowments Department,
Government of Andhra Pradesh, Hyderabad.
2 The Assistant Commissioner, Endowments Department
Nellore.
3 Sri Alaganadha Swamy Temple and Sri Anjaneya Swamy Temple,
rep.by its Trustee G.Krishna Reddy, Nedumusali Village
Indurkupet Mandal, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction mostly one which is in the nature of Writ of Mandamus declaring the proceedings D.Dis.No.M2/13247/2000, Dt.14/03/2001 of the first respondent as illegal, irregular, arbitrary, unjustified, unconstitutional and unsustainable and set aside the same holding that the petitioner is entitled for confirmation of the sale of lands admeasuring Ac.1.01 in Sy.No.246/A and Ac.1.02 in Sy.No.246/B of Nedumusali Village, Indukurpet Mandal, Nellore District.

Counsel for the Petitioner : Mr.P.VEERA REDDY

Counsel for the Respondents : G.P. FOR ENDOWMENTS

The Court made the following :

ORDER:

Heard both sides and at their request, the writ petition itself is taken up for hearing and disposed of by this order.

The petitioner herein who claims to be the highest bidder in a public auction conducted by the second respondent on 19.2.2000 in respect of the land bearing Survey No.246/A and 246/B, totally admeasuring Ac.2-03 cents of Nedumusali village, Indukurpet mandal, Nellore district, filed the writ petition inter alia seeking to assail the impugned order dated 14.3.2001, whereunder the first respondent refused to confirm the said auction.

The learned counsel appearing on behalf of petitioner submits that having regard to the fact that the petitioner is the highest bidder and paid substantial amount of Rs.60,000/- towards 1/3rd amount out of the bid amount of Rs.1,75,000/- and she has been in possession of the property and in fact she raised fish pond by incurring huge expenditure and therefore, the question of non-confirmation of sale in her favour is wholly illegal and unsustainable.

The learned counsel appearing for third respondent-Temple submits that there is no dispute with regard to the fact that the petitioner was the highest bidder and she is in possession of the property and she raised fish pond. However, it is stated that the petitioner has not paid the balance 2/3rd amount and therefore the question of confirmation of sale in her favour does not arise.

The learned Government Pleader appearing on behalf of Respondents 1 and 2 filed counter affidavit to the effect that the first respondent has rightly refused to confirm the sale mainly on the ground that there is no proper compliance of the conditions and that there is no sanction for converting the land into fish pond.

Having regard to the submissions made by the counsel appearing for the parties and the material placed before this Court, it can be seen that the petitioner has deposited an amount of Rs.60,000/- and the balance is yet to be paid. It is also admitted that

the petitioner is in possession of the land by raising fish pond. In view of the same, it is more desirable that the sale made in favour of the petitioner be confirmed subject to petitioner's complying with other conditions namely depositing the balance 2/3rd amount with interest at 10% per anum from the date of auction.

In the circumstances, the writ petition is allowed, setting aside the impugned order dated 14.3.2001 passed by the first respondent, and directing the respondents to confirm the sale made in favour of the petitioner in respect of land bearing Survey No.246/A and 246/B, total admeasuring Ac.2-03 cents of Nedumusali village, Indukurpet mandal, Nellore district, subject to the condition that the petitioner deposits the balance 2/3rd amount along with interest at 10% per annum within a period of three months from today. No costs.

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B.PRAKASH RAO, J

Date: 2.8.2004

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